

No. 26-CA-085613

IN THE SUPREME COURT OF THE UNITED STATES

LEE CRAFT – PETITIONER

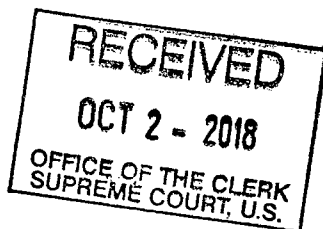
vs.

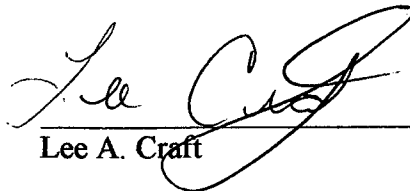
NATIONAL LABOR RELATIONS BOARD, ET AL --RESPONDENTS

MOTION FOR LEAVE TO FILE OUT OF TIME

I, Lee Craft, petitioner, am filing this motion for leave to file out of time. The Sixth Circuit Court of Appeals denied my petition for review on June 5, 2018.

I have no legal training, no means to hire an attorney, and despite my best efforts and intentions, I was unable to meet the September 4, 2018 deadline to file the attached Motion for Leave to Proceed *In Forma Pauperis* and Writ of Certiorari. I sought to understand the rules of the Court and include all the required documents to meet the deadline, but I was logistically unable to do so in time. However, due to the serious nature of the issue of my complaint, I am requesting that the Court grants this motion. I do not believe that granting the motion would cause undue prejudice to any party.





Lee A. Craft

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

No. 17-1544

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Jun 05, 2018
DEBORAH S. HUNT, Clerk

LEE CRAFT,)	
)	
Petitioner,)	
)	
v.)	ON PETITION FOR REVIEW
)	FROM THE NATIONAL LABOR
NATIONAL LABOR RELATIONS BOARD,)	RELATIONS BOARD
)	
Respondent.)	
)	

ORDER

Before: BATCHELDER, GIBBONS, and WHITE, Circuit Judges.

Lee Craft, proceeding pro se, petitions for review of the National Labor Relations Board's (Board) decision adopting the administrative law judge's (ALJ) finding that Philips Electronics N.A. Corporation's (Philips) decision to discharge Craft did not violate section 8(a)(1) of the National Labor Relations Act, 29 U.S.C. § 158(a)(1). This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a).

The Board issued a complaint on behalf of Craft, alleging that Philips had discharged Craft for engaging in protected activity. During the subsequent two-day administrative hearing, Philips presented evidence that it had intended to fire Craft regardless of his protected activity, and the General Counsel provided evidence to the contrary, including Craft's testimony. Upon considering all of the evidence, the ALJ found that, although Craft's protected activity was a

motivating factor in Philip's decision, Philips would have terminated Craft even if he had not engaged in such activity. Concluding that Philips had not violated section 8(a)(1) by discharging Craft, the ALJ dismissed the complaint. On review, the Board adopted the ALJ's conclusion, determining that there was no reason to reverse the ALJ's credibility findings. After the Board denied his request for reconsideration, Craft filed this petition and moved to proceed in forma pauperis.

We grant Craft's motion to proceed in forma pauperis under Rule 24(b)(2) of the Federal Rules of Appellate Procedure. When considering such a motion, we consider "whether the court costs can be paid without undue hardship." *Foster v. Cuyahoga Dep't of Health & Human Servs.*, 21 F. App'x 239, 240 (6th Cir. 2001). Upon review of Craft's financial affidavit, we are satisfied that paying the \$505 filing fee would work an undue hardship upon him.

Our review of a decision issued by the Board is limited. We review the Board's legal conclusions de novo, but we "will uphold the Board's findings of fact . . . if supported by substantial evidence on the record." *Conley v. NLRB*, 520 F.3d 629, 638 (6th Cir. 2008). A decision of the Board is supported by substantial evidence if "there is 'such relevant evidence as a reasonable mind might accept as adequate to support a conclusion,' even if there is also substantial evidence for an inconsistent conclusion." *Mt. Clemens Gen. Hosp. v. NLRB*, 328 F.3d 837, 844 (6th Cir. 2003) (quoting *NLRB v. Main St. Terrace Care Ctr.*, 218 F.3d 531, 537 (6th Cir. 2000)). In other words, we "defer to the Board's reasonable inferences and credibility determinations." *Id.* (quoting *Painting Co. v. NLRB*, 298 F.3d 492, 499 (6th Cir. 2002)).

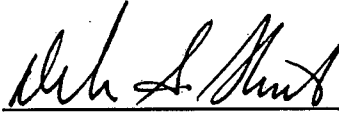
Substantial evidence supports the Board's conclusion that Philips would have terminated Craft even if he had not engaged in protected activities. *See NLRB v. Int'l Bhd. of Elec. Workers*, 514 F.3d 646, 649 (6th Cir. 2008) (explaining employer's burden under *Wright Line*, 251 N.L.R.B. 1083 (1980)). According to Craft, the evidence did not sufficiently support that conclusion, as Philips's testimonial evidence was neither consistent nor credible. But we are compelled to defer to the Board's conclusions concerning credibility and the weight ascribed to the evidence. And on the whole, Philips presented evidence sufficient to support the Board's conclusion.

No. 17-1544

- 3 -

For these reasons, we **GRANT** the motion to proceed in forma pauperis, and we **DENY** the petition for review.

ENTERED BY ORDER OF THE COURT

A handwritten signature in black ink, appearing to read "Deborah S. Hunt", is written over a horizontal line.

Deborah S. Hunt, Clerk

**Additional material
from this filing is
available in the
Clerk's Office.**